

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

THERESA ZELUDANCZ	:	
	:	
Complainant	:	
	:	
and	:	CASE NO. <u>M-0509</u>
	:	
BOARD OF COMMISSIONERS, HILLSBOROUGH	:	DECISION NO. <u>780024</u>
COUNTY AND RICHARD DUPONT, IN HIS	:	
CAPACITY AS CHAIRMAN	:	
	:	
Respondents	:	

APPEARANCES

Representing Mrs. Zeludancz, Complainant:

Attorney John Czecuk

Representing Hillsborough County Board of Commissioners
and Richard Dupont, Chairman, Respondents:

Attorney Paul M. Gagnon, Assistant County Attorney

Witnesses:

For the Complainant:

Parker L. Hancock, Social Worker, Hillsborough County House
of Correction
Dennis F. Casey, Jailer, Hillsborough County House of Correction
James C. Anderson, President, Council 68

For the Respondents:

Richard W. Roulx, Business Manager, Hillsborough County

BACKGROUND

On October 28, 1977, Mrs. Zeludancz filed a complaint of unfair labor practice against the Board of Commissioners and Chairman Richard Dupont alleging violation of RSA 273-A:5 by denying her hazardous duty pay, stating her position required her to be in almost daily contact with inmates of the House of Correction.

*Re: managerial-
policy regarding
hours of work*

In its response to the charge, the County denied the unfair labor practice and felt it within the province of the County Commissioners to determine who did or did not receive the hazardous duty pay. Further, the County believed the charge belonged in the grievance procedure and should be filed with her union representative. The County sought the dismissal of the complaint.

Hearing was held on January 25, 1978 in the Board's office at which time the Attorney for Mrs. Zeludancz sought to introduce additional charges relating to a reduction in work hours.

Counsel for the County objected to the introduction of new charges and filed a motion for dismissal which PELRB, after consideration, denied. Counsel then filed a motion for continuance which was granted.

Amended charges were filed March 2, 1978 and included along with the denial of hazardous duty pay, the charge that subsequent to the original filing, the employee's workweek was reduced from full time to half time.

The County stated the employee's workweek was reduced due to the phasing out of the County Farm operations thus reducing the workload by approximately 50 percent. The Commissioners maintained that hazardous duty pay and the determination of employment status are managerial policies in that they relate to the organizational structure of the employer and to the selection, direction and number of its personnel.

Hearing on the amended charges was held April 11, 1978 in Concord. Evidence before this Board indicated that Theresa Zeludancz has been employed in one capacity or another since 1969 by the Hillsborough County Commissioners basically in an accounting position.

During the latter part of her employment, because of a change in direction by what used to be known as "Moore General" and the Hillsborough County Home, Mrs. Zeludancz was transferred in an account clerk position to service the Hillsborough County House of Correction and the Hillsborough County Farm, which transfer was accepted by the parties of interest.

Mrs. Zeludancz shortly after her transfer to the House of Correction was authorized hazardous duty pay which is in addition to the regular salary schedule for individuals employed by the County who come in contact with prison inmates.

Subsequent to the authorization for hazardous duty pay by the department head of the County House of Correction, the hazardous duty pay was suspended by an action of the County Commissioners alleging that her contact with prisoners was infrequent and dissimilar to others in a similar category.

Evidence at the hearing brought forth testimony that Mrs. Zeludancz did in fact have daily contact with inmates of the House of Correction and sometimes in the company of the guards and sometimes unaccompanied.

Subsequent to the hazardous duty pay issue, a complaint of unfair charge was amended to include that she had been reduced from a full time to a part time employee by reason of the dissolution and discontinuance of the County Farm operation. Evidence at the hearing indicated certain disagreement

between Mrs. Zeludancz and the Commissioners to the extent that these disagreements were aired in the Press, which really has no bearing on the case before the Board. The nature of final responsibility for authorization of hazardous duty pay was unclear to the Board based on the testimony and appeared to be handled in a non-specific fashion. This resulted in concerns expressed by her immediate supervisor, herself and the other commissioners which appeared to this Board unresolved.

The two issues before this Board involved the entitlement of hazardous duty pay and the reduction in position requirements from full time to half time.

This Board cannot and will not transgress the authority granted to management under RSA 273-A:1, XII, "The phrase 'managerial policy within the exclusive prerogative of the public employer' shall be construed to include but shall not be limited to the functions, programs and methods of the public employer, including the use of technology, the public employer's organizational structure, and the selection, direction and number of its personnel, so as to continue public control of governmental functions." and declines to make a finding on this issue because the evidence clearly indicates that management does in fact have a right to determine the organizational structure and the position requirements of its own operations without interferences.

This Board, in passing, while reviewing managerial rights under RSA 273-A:1, XII, is of the firm opinion that a long time employee should and could be extended certain consideration for transfer to other assignments.

FINDINGS OF FACTS

1. Mrs. Zeludancz was placed on hazardous duty pay by her immediate supervisor.
2. As Account-Clerk, Mrs. Zeludancz's duties included the work of both the House of Corrections and the County Farm.
3. Her duties did require her to be in contact with inmates of the House of Corrections.
4. The phasing of the County Farm has substantially reduced the amount of accounting work.
5. At the time of negotiations the Account-Clerk position was included in the unit.
6. New administrator, April 11, 1978, to make a thorough review of the department.

DECISION AND ORDER

Theresa Zeludancz is entitled to the benefit of hazardous duty pay if her position does bring her in contact with inmates of the County House of Corrections.

The matter of whether the position is full time or part time is a matter of managerial policy.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 6th day of June, 1978

Unanimous vote. Present and voting Chairman Edward J. Haseltine, Richard H. Cummings, Edward L. Allman and Joseph B. Moriarty. Also present, Clerk Evelyn C. LeBrun.

Board Member James C. Anderson, President of Council 68 and a party of interest took no part in the discussions and decision making on this case.